

SECTION: CERTIFICATION

SUBJECT: Disqualification

ITEM: *Criteria for Disqualification*



Definition Participant means a low income woman, breastfeeding woman, postpartum woman, infant or child, and includes a parent, proxy, alternate, caretaker or representative of an infant or child participant, who receives supplemental foods under the WIC Program.

Policy A local agency shall notify (verbally or in writing) each participant, parent or caretaker not less than 15 days before the expiration of each certification period, that their certification for the program is about to expire. See WPM 240-10 for more information.

A local agency shall disqualify a participant from the WIC program at a recertification appointment or in mid-certification period if they meet one or more of the criteria described below. A participant shall be advised in writing of the effective date of the disqualification, the ending date (when applicable), the reason(s) for disqualification, and the right to a fair hearing.

Local agency staff shall issue a Notice of Action Affecting WIC Program Participation (DHS 4304), to the participant family upon disqualification. The Notice of Action Affecting Program Participation serves as the written notice of disqualification. The local agency staff shall either hand the document to the participant or mail it to the participant's address on file. When delivered by mail, this document must be mailed certified, return receipt requested.

If a participant fails to keep a recertification appointment (having been informed at a previous visit that their certification period is about to expire), the local agency shall not disqualify the participant, and need not issue/mail a notice of action. Eligibility merely expires. If the participant returns after expiration of the certification period, the person is an applicant not a participant and the provisions of WPM 240-10 and 280-10 apply.

**Policy
(continued)**

For a participant disqualified in mid-certification period for no longer meeting program eligibility requirements (e.g., excess income), or for a violation of program rules, 15 days notice is required. Therefore, the effective date of the disqualification shall be at least 15 calendar days after the Notice of Action Affecting Program Participation (DHS 4304) is issued.

Participants who are determined to be dual participating (whether intentionally or unintentionally) shall be terminated immediately from all but one of the cases in which the participant is simultaneously participating, whether it be from other agencies, clinics, or the Commodity Supplemental Food Program. Immediate termination does not require 15 days notice. Therefore, the effective date of the disqualification shall be the same date the Notice of Action Affecting Program Participation (DHS 4304) is issued.

A local agency shall complete and submit a report to the WIC Branch, Program Integrity Unit, when staff determines that a participant has committed a program violation. In the case of dual participation, the local agency must submit the report within two working days. Local agencies must cooperate fully with the WIC Branch, Program Integrity Unit, in its investigation.

A local agency shall allow participants the opportunity to reapply for program benefits following disqualification in accordance with the criteria described below.

Note: For more information about the right to a fair hearing, refer to WPM 520-10.

**Authority for
policy**

7 CFR 246.7 (c)(1),(d)(2), (e), (f)(1), (h), (j)(5 through 9), (l)(1), and (p)
7 CFR 246.9 (c)&(e)&(g)
7 CFR 246.12 (u)
7 CFR 246.23 (c)(1)
22 CCR 40611, 40625, 40627, 40679, 40681, and 40683

**Criteria for
disqualification
at recertification**

The table below describes criteria for participant disqualification at a recertification appointment:

Criterion	Description
No longer in a category served by WIC	<p>At a recertification appointment the participant is no longer in a category served by WIC, such as:</p> <ul style="list-style-type: none"> • Child who is 5 years of age or older, • Nonbreastfeeding woman whose baby is greater than 6 months of age. • Breastfeeding woman whose baby has attained one year of age. <p>See WPM 210-10.</p>
Found to exceed income	<p>At a recertification appointment the participant's family income exceeds the maximum income allowable for program eligibility.</p>
Fails to provide required documentation	<p>At a recertification appointment the participant does not provide required documentation, such as:</p> <ul style="list-style-type: none"> • Income documentation within 30 days, or later provides the documentation and is found to be over income (See WPM 210-40.2 p. 8 of 9), • Proof of identity and does not meet an exception stated in WPM 270-20, • Proof of address and does not meet an exception stated in WPM 210-30, <p>Either: 1) Do not recertify, but schedule a new appointment. OR 2) Proceed with disqualification.</p>
No longer has a nutritional need	<p>At a recertification appointment the participant no longer has an indicator of nutritional need/risk.</p>

**Criteria for
disqualification
at recertification
(continued)**

Presence	<p>The participant is not present at the recertification appointment and does not meet the exemption criteria.</p> <p>Either: 1) Reschedule the recertification appointment. OR 2) Proceed with disqualification.</p>
No longer in a priority served	<p>At a recertification appointment the participant is not in a priority being served due to a funding shortage. See WPM 230-10.</p> <p>If the WIC Branch experiences a funding shortage, it may be necessary to deny program benefits to a number of participants who's nutritional and health status would be least impaired by withdrawal or denial of program benefits.</p> <p>The following guidelines apply:</p> <ul style="list-style-type: none"> • Disqualification due to funding shortages should be a last resort following complete exploration of alternative actions, and should be calculated to affect the least number of participants using the WIC priority ranking system. • Such persons shall be placed on a waiting list by the local agency. See WPM 230-20. <p>Note: Program benefits will resume once the State WIC Branch notifies the local agency. Participants disqualified from receiving program benefits due to a funding shortage shall not be disqualified until the end of their certification period.</p>

**Criteria for
disqualification
in mid-
certification
Period**

The table below describes criteria for participant disqualification in mid-certification period:

Criterion	Description
Found to exceed income	<p>If during a participant's certification period the local agency is made aware of an increase in the family's income, the local agency shall reassess the income eligibility of all family members. If the local agency determines that the family income exceeds the maximum allowable income, all family members must be disqualified, using the Disqualify function in ISIS.</p> <p>Also, an individual determined adjunctively income eligible must not be disqualified mid-certification <u>solely</u> on the basis of a determination that she/he is no longer certified eligible to participate in:</p> <ul style="list-style-type: none"> • TANF, • Medi-Cal, • Food Stamps, or • Other qualified State-administered programs. <p>In such cases the local agency shall reassess the family's income and make a determination accordingly. Refer to WPM 210-40.1 for more information on adjunctive eligibility.</p>
No longer in a category served by WIC	<p>If during a participant's certification period the local agency is made aware of a change in status, e.g., a breastfeeding mother whose baby is greater than 6 months of age, discontinues breastfeeding. See WPM 240-10.</p>
Fails to provide proof of category	<p>If during a participant's certification period the participant fails to provide proof of category, the local agency may disqualify the participant. For example, a woman who states she is pregnant at application but does not yet have documented proof of pregnancy, is certified and then given a reasonable period of time to obtain such proof (not to exceed 60 days). If such documentation is not provided as requested, the local</p>

**Criteria for
disqualification
in mid-
certification
Period
(continued)**

	agency may disqualify the participant in mid-certification period, using the Disqualify function in ISIS.
Participant abuse of program	Various program violations as described in “Program Violations” section below.
Dual participation	Simultaneous participation by the same person(s) in more than one WIC local agency, or more than one WIC clinic site within a local agency, or in the WIC program and the Commodity Supplemental Food Program (CSFP) at the same time. See Program Violations section below for details.

Procedure

When a participant no longer meets the WIC program eligibility requirements at a recertification appointment, or in mid-certification period:

If...	Then...
Fifteen days or more remain before the participant’s current food instruments expire (before the Last Day To Use).	<ul style="list-style-type: none"> • Do not issue food instruments, • Complete and issue DHS 4304, effective the day after the “Last Day To Use” of the existing food instruments, • Use the disqualify function in ISIS.
Fewer than 15 days remain before the participant’s current food instruments expire (before the Last Day To Use).	<ul style="list-style-type: none"> • Issue one month of food instruments, • Complete and issue DHS 4304, effective the day after the “Last Day To Use” of the newly issued food instruments, • Use the disqualify function in ISIS.

Note: In actual practice, the effective date of a disqualification will need to be after the “Last Day To Use” on existing food instruments for the

disqualification to have any practical effect. If existing food instruments do not have 15 days of authorization remaining, then the local agency will need to issue one additional month of food instruments in order to comply with the notice requirement. In this instance, the local agency needs to make the disqualification effective the day after the “Last Day To Use” of the new food instruments.

ISIS

The local agency shall use the Disqualify function in ISIS when making a determination of disqualification at a recertification appointment or in mid-certification period as appropriate.

Program Violations

Definition of program violations

Participant abuse of the program includes any of the following reported program violations due to the intentional actions of a participant, alternate, proxy, parent, guardian, caretaker, or representative of the participant:

- Making false or misleading statements or misrepresenting, concealing or withholding facts to obtain Program benefits;
 - Exchanging food instruments or supplemental foods purchased with WIC food instruments for cash, credit, non-food items, or unauthorized food items;
 - Exchanging food instruments for more than the specified amount of supplemental foods listed on the food instruments;
 - Physically harming, or threatening to harm WIC clinic or food vendor staff;
 - Stealing food instruments;
 - Participating in more than one WIC office, or in the Commodities Supplemental Food Program (CSFP) and in WIC, at the same time (Dual participation);
 - Redeeming more than the number of food instruments for which the participant is eligible;
 - Altering the food instrument; or
 - Redeeming food instruments at an unauthorized food vendor.
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Reporting of program violation

In order for the WIC Branch to comply with federal requirements, the local agency shall complete and submit form DHS 4476 (Report of Dual Participation/Participant Abuse) to the WIC Branch, Program Integrity Unit, on each program violation detected by local agency staff. The local agency must do this within two workdays in cases of Dual Participation, and within 10 days of detecting all other instances of suspected or actual program violation. The WIC Branch must then open an investigation and take appropriate action within 120 days of any incident. Local agencies must cooperate fully with the WIC Branch, Program Integrity Unit, in its

investigation.

**Participant
sanctions for
program
violation**

The WIC Branch may provide a warning to the participant if the WIC Branch determines that there are not sufficient facts for a finding that the participant, alternate, parent, guardian, caretaker, etc., intentionally committed a program violation.

The WIC Branch shall disqualify a participant for one (1) year for any violation of physically harming or threatening to harm WIC or food vendor staff.

The WIC Branch will assess a claim for the full value of benefits obtained or disposed of improperly for all participant violations regardless of the amount of financial loss to the Program.

The WIC Branch shall disqualify a participant for one (1) month if the violation is a first violation and results in a financial loss to the Program of less than \$100 (except dual participation as described below, or harming or threatening to harm as described above).

The WIC Branch shall disqualify a participant for one year if the violation results in a financial loss to the program of \$100 or more, or assesses a claim for a subsequent violation in any amount within three (3) years of the previous violation, or dual participation in any amount. The WIC Branch shall not to impose the mandatory disqualification if:

1. Within 30 days of receipt of the letter demanding repayment, full restitution is made or a repayment schedule is agreed upon, or
2. In the case of a participant who is an infant, child, or under age 18, the Department and local agency approve the designation of an alternate.

The effective date of the disqualification shall be at least 15 calendar days after the issuance date of the Notice of Action Affecting WIC Program Participation (DHS 4034). The notice shall include the effective date, ending date, reason(s) for the disqualification, and right to a fair hearing.

Note: In actual practice, the effective date of disqualification will need to be after the “Last Day To Use” on existing food instruments for the sanction to have any practical effect. If existing food instruments do not have 15 days of authorization remaining, then the local agency will need to issue one additional month of food instruments in order to comply with the notice requirement. In this instance, the local agency needs to make the disqualification effective the day after the “Last Day To Use” of the new food instruments.

Definition of dual participation

Dual participation means either:

- Simultaneous participation by the same person(s) in more than one WIC local agency or more than one WIC clinic site within a local agency, or
- Participant(s) receive benefits from both the WIC Program and the Commodity Supplemental Food Program (CSFP) during the same time period.

Disqualification procedures for dual participation

A local agency shall immediately (**without 15 calendar days notice**) terminate all but one case of a participant from WIC who is simultaneously participating in more than one WIC local agency or WIC site within a local agency, provided they are still eligible for benefits (the eligible participant chooses one local agency/site from which to continue receiving WIC Program benefits).

The WIC Branch shall disqualify (**with 15 calendar days notice**) the participant from the local agency/site from which they chose to continue receiving WIC program benefits (provided they are still otherwise eligible for benefits) in accordance with the sanction provisions above. The effective date of the disqualification shall be at least 15 calendar days after the issuance date of the Notice of Action Affecting WIC Program Participation (DHS 4034).

A local agency shall immediately (**without 15 calendar days advance notice**) terminate the case of a participant who is found to be simultaneously participating in the WIC program and the Commodity Supplemental Food Program (CSFP), unless the participant chooses to continue receiving benefits from the WIC program. If the participant chooses to receive benefits from the WIC program, the local agency shall place a hold in ISIS and not issue food instruments until the participant provides notice of disqualification from the CSFP. If the participant chooses to receive benefits from the CSFP instead, the local agency shall immediately (without 15 days notice) terminate the participant case. See WPM 210-10.

If the WIC Branch determines that the participant has been intentionally dually participating in both WIC and CSFP, even if the participant has already been terminated from WIC, the WIC Branch must demand restitution and possibly sanction and disqualify the participant from the WIC Program for one year. The local agency will need to note such possible subsequent disqualification action in its Notice of Action (without 15 days notice.) described above.

Note: Use Disqualify Code 09 "Dual Participation", on the ISIS Disqualify Individual screen in order to ensure accurate reporting and accountability to USDA.

ISIS

The WIC Branch or local agency shall use the Disqualify function in ISIS as described above in Procedures, and record any other needed information in Family Comments, e.g. ending date of the disqualification period, when disqualifying a participant or participant family for a program violation. Depending on the duration of the disqualification and other timing factors, the participant/participant family's record may batch out of the system and require re-enrollment upon return of the participant.

Note: Select Disqualify Code 09 for Dual Participation, or Code 10 for all other Program Violations as appropriate in order to ensure accurate reporting and accountability to USDA.

Participant Reinstatement And Reapplication Rights

Local agencies shall allow applicants/participants the opportunity to reapply for program benefits.

**Loss of eligibility
or ineligible**

Applicants determined ineligible, or participants disqualified from the program because they no longer meet the program eligibility criteria, may reapply as a new applicant when their circumstances change. No waiting period is required if local agency caseload is available, and the applicant/participant is able to provide additional information regarding eligibility status. However, if at the time of a prior participant's reapplication for program benefits the local agency is participating at maximum caseload and is not serving the person's priority, the prior participant shall be placed on a waiting list as an applicant.

**Program
violation**

Participants disqualified from the program due to a violation of program rules may reapply for benefits following the end of the disqualification period. It is the participant's responsibility to contact the local agency for an appointment following the expiration of the disqualification period. Because the disqualification action will have ended or truncated the participant's certification period, the returning participant must reapply for program eligibility as a new applicant, and meet all program eligibility requirements.
